



General Assembly

February Session, 2002

Amendment

LCO No. 3098

SB0036003098SD0

Offered by:
SEN. HARP, 10th Dist.

To: Subst. Senate Bill No. 360

File No. 152

Cal. No. 141

***"AN ACT CONCERNING NOTICE AND PUBLIC HEARING PRIOR
TO A NURSING HOME CLOSURE."***

1 Strike out everything after the enacting clause and insert the
2 following in lieu thereof:

3 "Section 1. Section 17b-352 of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2002*):

5 (a) For the purposes of this section and section 17b-353, "facility"
6 means a residential facility for the mentally retarded licensed pursuant
7 to section 17a-277, as amended, and certified to participate in the Title
8 XIX Medicaid program as an intermediate care facility for the mentally
9 retarded, a nursing home [,] or rest home, [or residential care home,] as
10 defined in section 19a-490, as amended.

11 (b) Any facility which intends to (1) transfer all or part of its
12 ownership or control prior to being initially licensed; (2) introduce any
13 additional function or service into its program of care or expand an
14 existing function or service; or (3) terminate a service or decrease

15 substantially its total bed capacity, shall submit a complete request for
16 permission to implement such transfer, addition, expansion, increase,
17 termination or decrease with such information as the department
18 requires to the Department of Social Services. If, acting pursuant to
19 subdivision (3) of this subsection, on the same day that the facility
20 submits its request for permission to the department, the facility shall
21 send a copy of such request to the Office of the Long-Term Care
22 Ombudsman, post a copy in a conspicuous location in the facility and
23 make copies available to any patients, guardians, conservators, legally
24 liable relatives or other responsible parties, upon request.

25 (c) An applicant, prior to submitting a certificate of need
26 application, shall request, in writing, application forms and
27 instructions from the department. The request shall include: (1) The
28 name of the applicant or applicants; (2) a statement indicating whether
29 the application is for (A) a new, additional, expanded or replacement
30 facility, service or function, (B) a termination or reduction in a
31 presently authorized service or bed capacity, or (C) any new,
32 additional or terminated beds and their type; (3) the estimated capital
33 cost; (4) the town where the project is or will be located; and (5) a brief
34 description of the proposed project. Such request shall be deemed a
35 letter of intent. No certificate of need application shall be considered
36 submitted to the department unless a current letter of intent, specific to
37 the proposal and in accordance with the provisions of this subsection,
38 has been on file with the department for not less than ten business
39 days. For purposes of this subsection, "a current letter of intent" means
40 a letter of intent on file with the department for not more than one
41 hundred eighty days. A certificate of need application shall be deemed
42 withdrawn by the department, if a department completeness letter is
43 not responded to within one hundred eighty days. If, acting pursuant
44 to subdivision (3) of subsection (b) of this section, on the same day that
45 the facility submits its letter of intent and certificate of need application
46 to the department, the facility shall notify the Office of the Long-Term
47 Care Ombudsman, post a copy in a conspicuous location in the facility
48 and make copies available to any patients, guardians, conservators,

49 legally liable relatives or other responsible parties, upon request.

50 (d) Upon receipt of a facility's letter of intent pursuant to
51 subdivision (3) of subsection (b) of this section, the State Ombudsman
52 shall hold a public meeting to be held at the facility within thirty days
53 of receipt of the letter of intent. The public meeting shall be held at a
54 reasonable time, so that the patients, guardians, conservators, legally
55 liable relatives or other responsible parties may attend. The State
56 Ombudsman shall notify the facility of the date of the public meeting
57 at least fourteen days before the date of the meeting. A representative
58 of the Department of Social Services' office of certificate of need and
59 rate setting shall attend the public meeting and accept written
60 statements from the public. The department shall consider such
61 written public statements, but not modify, grant or deny the facility's
62 certificate of need application pursuant to subsection (g) of this section:
63 (1) Unless said representative is present at the public meeting; and (2)
64 until said representative submits the written statements obtained at the
65 public meeting to the commissioner.

66 (e) (1) Any facility, acting pursuant to subdivision (3) of subsection
67 (b) of this section, shall provide written notice, at the same time it
68 submits its letter of intent to all patients and the patients' guardian or
69 conservator, if any, or legally liable relative or other responsible party,
70 if known, and shall post such notice in a conspicuous location at the
71 facility. The notice shall state the following: (A) The projected date the
72 facility will be submitting its certificate of need application; (B) that
73 only the Department of Social Services has the authority to either
74 grant, modify, or deny the application; (C) that the department has up
75 to ninety days after it receives the certificate of need application to
76 grant, modify, or deny the certificate of need application; (D) a brief
77 description of the reason for submitting a letter of intent; (E) that no
78 patient shall be involuntarily transferred or discharged within or from
79 a facility pursuant to state and federal law because of the filing of a
80 letter of intent or certificate of need application; (F) that all patients
81 have a right to appeal any proposed transfer or discharge; (G) within
82 thirty days of the submission of the facility's letter of intent, the State

83 Ombudsman shall convene a public meeting at the facility; (H) the
84 meeting shall be held at a reasonably time, so that the patients,
85 guardians, conservators, legally liable relatives, or other responsible
86 parties may attend; (I) that a representative from the Department of
87 Social Services will attend and accept written statements from the
88 public; (J) the facility will post and make available copies of its letter of
89 intent and certificate of need application upon request; and (K) the
90 name, mailing address and telephone number of the Office of the
91 Long-Term Care Ombudsman and local legal aid office.

92 (2) After the facility is notified of the date of the public meeting
93 pursuant to subsection (d) of this section, the facility shall provide
94 written notice of the date, time and place at least ten days prior to the
95 public meeting to all patients and the patients' guardian or
96 conservator, if any, or legally liable relative or other responsible party,
97 if known, and the State Ombudsman. The facility shall also post such
98 notice in a conspicuous location in the facility.

99 (f) The notice required pursuant to subdivision (1) of subsection (e)
100 of this section shall be in writing and substantially in the following
101 form:

102 ".... (Name of facility) Hereby gives (Name of the patient and the
103 patient's guardian or conservator, if any, or legally liable relative or
104 other responsible party if known) notice that we have filed a "letter of
105 intent" with the Department of Social Services because we intend to
106 (State either close this facility or substantially decrease our bed
107 capacity). The reasons for our filing are (State reasons).

108 We have notified the Department of Social Services of our intention
109 and will be submitting our formal application, which is called a
110 certificate of need application, to the department on (Projected
111 date). You can not be involuntarily transferred or discharged as a
112 result of the filing of a letter of intent or certificate of need application.
113 You have a right to appeal any involuntary transfer or discharge. This
114 means that you do not need to take any action at this time if you so

115 choose.

116 The State Ombudsman will hold a public meeting at (Name of
117 facility) within thirty days of the submission of our "letter of intent".
118 The department will decide whether to grant, modify or deny our
119 request for (State either closure or bed reduction) after we submit
120 our certificate of need application. The department's decision will be
121 made within ninety days of receipt of our certificate of need
122 application, unless extended by the department. You will be notified in
123 writing by us of the meeting date. A representative from the
124 Department of Social Services will attend the meeting and accept
125 written statements.

126 We will post a copy of any letter of intent and certificate of need
127 application that we send to the Department of Social Services
128 (Location in the facility) and make copies available upon request.

129 You may contact the State Ombudsman and local legal aid office for
130 more information at: (Provide the names, mailing addresses and
131 telephone numbers).

132 (Name of facility)

133 (Date)

134 (Place of Signing Notice)"

135 [(d)] (g) The department shall review a request made pursuant to
136 subsection (b) of this section to the extent it deems necessary,
137 including, but not limited to, in the case of a proposed transfer of
138 ownership or control prior to initial licensure, the financial
139 responsibility and business interests of the transferee and the ability of
140 the facility to continue to provide needed services, or in the case of the
141 addition or expansion of a function or service, ascertaining the
142 availability of the function or service at other facilities within the area
143 to be served, the need for the service or function within the area and
144 any other factors the department deems relevant to a determination of

145 whether the facility is justified in adding or expanding the function or
146 service. The commissioner shall grant, modify or deny the request
147 within ninety days of receipt thereof, except as otherwise provided in
148 this section. Upon the request of the applicant, the review period may
149 be extended for an additional fifteen days if the department has
150 requested additional information subsequent to the commencement of
151 the commissioner's review period. The director of the office of
152 certificate of need and rate setting may extend the review period for a
153 maximum of thirty days if the applicant has not filed in a timely
154 manner information deemed necessary by the department. The
155 applicant may request and shall receive a hearing in accordance with
156 section 4-177 if aggrieved by a decision of the commissioner.

157 [(e)] (h) The Commissioner of Social Services shall not approve any
158 requests for beds in residential facilities for the mentally retarded
159 which are licensed pursuant to section 17a-227 and are certified to
160 participate in the Title XIX Medicaid Program as intermediate care
161 facilities for the mentally retarded, except those beds necessary to
162 implement the residential placement goals of the Department of
163 Mental Retardation which are within available appropriations.

164 [(f)] (i) The Commissioner of Social Services shall adopt regulations,
165 in accordance with chapter 54, to implement the provisions of this
166 section. The commissioner shall implement the standards and
167 procedures of the Office of Health Care Access concerning certificates
168 of need established pursuant to section 19a-643, as appropriate for the
169 purposes of this section, until the time final regulations are adopted in
170 accordance with said chapter 54."

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| This act shall take effect as follows: | |
| Section 1 | October 1, 2002 |